IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

OP.No. 17183 of 1999(U)

PETITIONERS:

1.SADANANDAN.E.N.,EDAPALLATH MANA,
P.O.POOTHARAKKAL, CHERPU, THRISSUR.

2.JAYANTHU KUMAR, VATASSERY MANA,
NJARAKKAL P.O., ERNAKULAM.

3.K.A.XAVIER,KANNIKATTU HOUSE,AROOR P.O.,
ALAPPUZHA.

4.P.SREE VALSAN,LAKSHMI NIVAS,
KANJIRAMATTOM P.O., ERNAKULAM.

5.MINIMOL A.R.,ARUVELIPARAMBIL HOUSE,
AYYAPPANKAVU, KOCHI-18.

6.DAVIS.C.P.CHAZHOOR HOUSE,P.O.KODANNUR,
THRISSUR.

7.LALSON GEORGE,KARTHANATT,P.O.MELOOR,
CHALAKUDY, THRISSUR.

8.ARAVINDAKSHAN K.S.,KAVALAKATTU HOUSE,
SOUTH VAZHAKULLAM, ALUVA, ERNAKULAM.

9.SUMA SREENIVASAN,PAPPURAYIL HOUSE,
EDAKULAM P.O., VIA.IRINJALAKUDA.

10.GEETHA M.K., EDASDERRIVALAPPIL HOUSE,
P.O.PERAMANGALAM, THRISSUR.

11.SHINE H. PALLATH,PALLATH HOUSE, CONVENT ROAD-I,
THOTTAKATTUKARA P.O., ALUVA - 683 108.

12.O.S.SATHIAN,OONUNGAL HOUSE,
P.O.PERINJANAM, THRISSUR-680 686.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

RESPONDENTS:

1.THE DIRECTOR OF HEALTH SERVICE,THIRUVANANTHAPURAM.

2.THE SECRETARY,HEALTH AND FAMILY WELFARE DEPARTMENT, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

3.THE STATE OF KERALA, REP. BY THE CHIEF SECRETARY TO GOVT., GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

4.A.DILEEP,LEPROSY INSPECTOR, PRIMARY HEALTH CENTRE, PERUMATHURA, THIRUVANANTHAPURAM.

5.K.V.SHOBHA,LEPROSY INSPECTOR, PRIMARY HEALTH CENTRE, OLLUR, THRISSUR.

6.E.A.LEELAVATHY, LEPROSY INSPECTOR, LEPROSY CONTROL UNIT, ERUMAPETTY, THRISSUR.

7.K.A.SARADA, LEPROSY INSPECTOR, LEPROSY CONTROL UNIT, IRINJALAKUDA, THRISSUR.

8.K.C.SANTHAKUMARI, GOVT. HOSPITAL, AYYAMPALLY, ERNAKULAM.

9.A.KANDA CHAMY, LEPROSY CONTROL UNIT, CHALISSERY, PALAKKAD.

10.K.KRISHNAN,PRIMARY HEALTH CENTRE, SHOLAYAR, PALAKKAD.

BY ADV. SRI.B.K.PURUSHOTHAMAN
SRI.K.K.NARAYANAN
GOVERNMENT PLEADER
SRI.C.S.ABDUL SAMMAD
SRI.V.D.BALAKRISHNA KARTHA
SRI.SUKUMARAN THOOYATH
SRI.K.P.JOHN
SRI.B.K.GOPALAKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/03/2007 ALONG WITH W.P.(C).NO. 21725 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.17183/1999

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF RELEVANT PAGES OF THE GRADATION LIST PUBLISHED BY THE 1ST RESPONDENT VIDE NO.EB2/87728/95 DHS DATED 7.10.95.

EXT.P2: COPY OF RODER NO.ES.2-27035197/ DHS DATED 2.6.1997.

EXT.P3: COPY OF G.O.(MS) NO.436/76/HD DATED 10.12.75.

EXT.P4: COPY OF REPRESENTATIONS SUBMITTED BY THE 7TH PETITIONER.

EXT.P5: COPY OF THE REPRESENTATION SUBMITTED BY THE 11TH PETITIONER.

EXT.P6: COPY OF THE ORDER NO.EG 2-106336/95/95 DHS DATED 9.3.99 PASSED BY THE RESPONDENTS.

RESPONDENTS EXHIBITS:

EXT.R8(A): COPY OF NOTIFICATION NO.DRI (4) 16972/89/GW DATED 26.5.1989 OF KERALA PUBLIC SERVICE COMMISSION.

EXT.R8(B): COPY OF ORDER NO.ES2-27035/95/DMS DATED 2.6.1997 OF DIRECTOR OF HEALTH SERVICES, TRIVANDRUM.

EXT.R8(C): COPY OF LETTER NO.E-II (4) 2485/89 DATED 26.10.1992 OF KERALA PUBLIC SERVICE COMMISSIONER, DISTRICT OFFICE, ERNAKULAM.

EXT.R8(D): COPY OF CERTIFICATE OF NOVEMBER 1989 ISSUED BY DIRECTOR OF HEALTH SERVIES.

EXT.R8(E): COPY OF ORDER NO.EB2/87723/95/DHS DATED 7.10.1995 OF DIRECTOR OF HEALTH SERVIES.

/TRUE COPY/

J.B. KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

O.P.NO.17183 OF 1999 (U)
&
W.P.(C) NO.21725 OF 2006 (J)

Dated this the 27th day of March, 2007

JUDGMENT

KOSHY,J.

Petitioner in W.P.(C).No.21725/2006 was appointed as Leprosy Health Visitor Grade II through the Employment Exchange on 23.9.1989. The qualification prescribed to the post of Leprosy Health Visitor Grade II is S.S.L.C. and training in Leprosy Health Visitor course. Later petitioner was advised by the Public Service Commission as per the scheme for Special Recruitment of Scheduled Castes to the same post on 26.10.1992 and she joined duty on 18.12.1992. Since the petitioner was advised on 26.10.1992, petitioner's seniority can be counted with effect to the date of advise by P.S.C. as per Kerala State and Subordinate Services Rules. Hence 26.10.1992 is the date from which seniority of the petitioner can be counted. Serial Nos.1 to 46 were advised on 12.2.1992. If the date of advise is taken for period of service, they are

admittedly in service. But they completed the training later and they were regularly appointed with effect from 10.10.1992. Since training was necessary, even if their seniority can be reckoned from 10.10.1992 and not from 12.2.1992, after advise and training, serial nos.1 to 46 were regularly appointed on 10.10.1992 whereas date of advise of the petitioner was only 26.10.1992. Therefore, even by going by the date of completion of training naturally serial nos.1 to 46 are seniors compared to the petitioner. In the above circumstances, we see no ground to grant any relief to the petitioner and hence the writ petition is liable to be dismissed.

2. Petitioners in O.P.No.17183/1999 were advised by the P.S.C. on 12.2.1992 for the post of Leprosy Inspector and sent for training as Leprosy Inspector. Training is an essential qualification. Without training they cannot be validly appointed as Leprosy Inspector. Hence effective date of advise is the date when they pass the training for the post under Rule 27(C) of K.S.S.R. They were appointed on 5.7.1994 after successful completion of training. They did not pass training in first instance but took two years. Respondent Nos.7 and 8 were appointed as Leprosy Inspectors under the

Special Recruitment Scheme. Their date of advise was 26.6.1992 and 26.10.1992. Even before advise of P.S.C. they passed the training (They passed the required training prior to selection by P.S.C.). Therefore their service has to be fixed from the date of advice under Rule 27(C) of the KSSR. They were also advised after training in 1992. Since petitioners passed the training, which is an essential qualification for appointment only in 1994, petitioners cannot claim service over those persons who completed the training in 1992. Petitioners applied in pursuance of notification dated 26.5.1989 (R7(1)) which started with the following sentence.

> "Applications are invited from qualified candidates in the prescribed form for admission of Leprosy Health Visitor Training Course under the Leprosy Control Programme in the Department of Kerala Health Services".

Duration of the course was six months. They were advised for the training course in 1992. They passed the training in 1994 only and got appointment . Their service for seniority can be counted from the date of appointment. There is no case that they passed the training in the first instance. We see no ground to interfere in the seniority fixed. Taking all these

circumstances, we are of the opinion that no interference is needed in O.P.No.17183/1999 and is liable to be dismissed.

Hence both writ petitions are dismissed.

J.B.KOSHY,JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR,
JJ.

W.P.(C) No./2007

Judgment

Dated:21st March, 2007